

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

HB 631 – SB 619

April 12, 2018

SUMMARY OF ORIGINAL BILL: Requires the State Board of Education (SBE) to promulgate rules for a program to reduce sources of lead contamination in drinking water. The program must include testing of lead levels in drinking water sources in schools built prior to June 19, 1986, retesting schools with high lead levels, and providing notice of tests where lead levels were high to the Commissioner of the Department of Education (DOE) as well as to the parents and guardians of children that attend the requisite schools with high lead levels in drinking water.

CORRECTED FISCAL IMPACT OF ORIGINAL BILL:

Increase State Expenditures - Exceeds \$5,400/FY18-19
Exceeds \$5,800/FY19-20 and Subsequent Years

Increase Local Expenditures -
Exceeds \$214,200/FY18-19 and Subsequent Years*

Other Fiscal Impact – There may be additional state expenditures and additional mandatory local expenditures if remediation of school water systems or potable water supplies is required after testing. The extent and timing of any such expenditures are dependent upon several unknown factors and cannot be reasonably determined.

SUMMARY OF AMENDMENT (017277): Deletes all language after the enacting clause. Requires local boards of education to develop a policy to implement a plan to reduce lead contamination of drinking water in schools that incorporates periodic, not to exceed biennial testing in public schools built before 1998. Authorizes newer schools to perform tests. Requires the immediate removal of water sources from service that test positive for lead contamination levels above 20 parts per billion. Requires annual retesting for schools with lead levels above 15 parts per billion until lead levels are reduced. Requires retesting of any contaminated water source within 90 days of any corrective action. Requires notice of high lead levels in drinking water to be sent to the Commissioners of the DOE, the Department of Health, as well as local departments of health and local government within 24 hours and to the students' parents or guardians within five business days.

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FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:

Increase State Expenditures – Exceeds \$3,000/FY18-19

Exceeds \$3,200/FY19-20 and Subsequent Years

Increase Local Expenditures – Exceeds \$128,800 FY18-19 and Subsequent Years*

Other Fiscal Impact – There may be additional state expenditures and additional mandatory local expenditures if remediation of school water systems or potable water supplies is required after testing. The extent and timing of any expenditures are dependent upon several unknown factors and cannot be reasonably determined.

Assumptions for the bill as amended:

- Based on information from the Tennessee Department of Environment and Conservation (TDEC) and the DOE, each lead test will cost a minimum of \$20 per tap from which water is drawn.
- It is estimated that there will be a minimum of 10 taps tested for each tested school; a minimum total expenditure of \$200 per tested school (10 minimum taps x \$20 test cost).
- Tests will be conducted on an biennial basis.
- If testing finds levels of lead beyond the level as set forth in the federal Safe Water Drinking Act (42 U.S.C. § 300f et.seq), then the state or local government, as applicable, will be required to provide safe drinking water and remediation until further testing proves that the lead level has been reduced to the acceptable standard.
- There may be additional increases in state or local expenditures in FY18-19 or subsequent fiscal years for further testing, the provision of potable water, and remediation upon an actionable finding; however, such expenditures cannot be reasonably determined and are dependent upon multiple unknown factors, including but not limited to, the number of impacted schools within the ASD or LEA; the number of schools that require continued testing; the type and amount of remediation that is necessary; and the length of time that remediation takes per school.

Assumptions Relative to State Expenditures for Lead Testing:

- Currently, the Achievement School District (ASD) has 26 schools built before 1998.
- Any new schools built before 1998 that are subsequently brought into the ASD after initial testing will be tested beginning in FY19-20 and biennially thereafter; it is estimated that at least 13 of these schools will perform tests in a given year.
- The ASD is assumed to add a minimum of two new schools each year that will require lead testing.

- At least two of the four state-run schools which include the Tennessee School for the Deaf (TSD), the West Tennessee School for the Deaf (WTSD), the York Institute, and the Tennessee School for the Blind (TSB), will conduct water tests in FY18-19 and each year thereafter.
- The total increase in state expenditures for FY18-19 is estimated to exceed \$3,000 [(\$200 x 13 ASD schools) + (\$200 x 2 for state run schools)]; and for FY19-20 and subsequent years is estimated to exceed \$3,200 [(\$200 x 13 ASD schools) + (\$200 x 2 for state run schools) + (\$200 x 1 for additional ASD schools)].


Assumptions Relative to Local Expenditures for Lead Testing:

- Currently, there are 1,819 primary or secondary schools in Tennessee.
- TDEC indicates that there are nine non-ASD operated schools that are currently required to test for lead contamination under current federal regulations relative to lead and copper testing.
- Based on information from the Tennessee Advisory Commission on Intergovernmental Relations, of the 1,819 Tennessee schools, there are at least 1,287 (1,322 schools built before 1998 – 26 ASD schools – 9 schools currently testing) locally controlled schools that would require annual lead testing under the provisions of this legislation.
- At least half of these, or 644, of these schools will perform tests in a given year.
- The mandatory recurring increase in local expenditures for testing is estimated to exceed \$128,800 (\$200 x 644 schools).

**Article II, Section 24 of the Tennessee Constitution provides that: no law of general application shall impose increased expenditure requirements on cities or counties unless the General Assembly shall provide that the state share in the cost.*

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



Krista M. Lee, Executive Director

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